

Excerpts of SB 862 (Committee on Budget and Fiscal Review), Greenhouse gases: emissions reduction.

August 20th, 2014

Yellow Highlight: Board Obligations

Blue Highlight: Department Obligations

...(7) The Z'berg-Nejedly Forest Practice Act of 1973 prohibits a person from conducting timber operations on timberland unless a timber harvesting plan has been prepared by a registered professional forester and has been submitted to the Department of Forestry and Fire Protection and approved by the Director of Forestry and Fire Protection or the State Board of Forestry and Fire Protection. A violation of the act is a crime.

This bill would authorize the director to enter into agreements and make grants for the purpose of preparing a program timberland environmental impact report (PTEIR) for projects that demonstrate potential to increase carbon sequestration, decrease atmospheric carbon levels, and reduce the potential for large wildland fires on land owned by smaller nonindustrial landowners, as defined. The bill would require a participating landowner to do certain things to be eligible to participate, including submit a proposal to the department detailing the long-term forest and land management plans, for approval by the director. The bill would require the department to pay for the costs of preparing the PTEIR or provide grants from funds appropriated to the department from the Greenhouse Gas Reduction Fund. The bill would authorize the board to promulgate regulations, guidelines, or publications as the board deems necessary to carry out the above provisions. The bill would require the regulations to specify, among other things, criteria to determine that timberlands have demonstrated potential for increased carbon sequestration and fire protection benefits.

Because a violation of these provisions by participating landowners would be a crime, the bill would impose a state-mandated local program....

(J) The Program Timberland Environmental Impact Report (PTEIR) for Carbon Sequestration and Fuel Reduction Program, which seeks to directly reduce emissions of greenhouse gases by increasing the potential of California's timberlands to sequester carbon and decrease emissions of greenhouse gases from wildfire by authorizing the Department of Forestry and Fire Protection to provide grants and other assistance to private landowners to improve the long-term management of timberlands and improve the carbon sequestration ability of these lands. Long-term uneven-aged management of private timberlands within the state and the retention of large, old trees can increase the ability of timberlands to sequester carbon through increased growth and inventory and to convert carbon dioxide into biomass through photosynthesis. Prudent management of timberlands can decrease the potential for large wildland fires that release greenhouse gases by creating forests that are less susceptible to ignition and that reduce the intensity of wildland fires, thereby allowing for more successful fire suppression efforts....

SEC. 11.

Article 7.8 (commencing with Section 4598) is added to Chapter 8 of Part 2 of Division 4 of the Public Resources Code, to read:

Article 7.8. Program Timberland Environmental Impact Report for Carbon Sequestration and Fuel Reduction Program

4598.

The Legislature finds and declares all of the following:

(a) In order to meet the goals of the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code), it is necessary to increase the carbon sequestration potential of California's timberlands and to decrease carbon emissions from wildland fires.

(b) Over one-half of the privately owned, commercial timberland in the state is owned by nonindustrial landowners. These lands will be increasingly important in the state's efforts to meet the goals of the California Global Warming Solutions Act of 2006. The owners of these lands often lack the forestry expertise, economic incentive, or capital needed to make investments to decrease present and future greenhouse gas emissions from their lands and the potential for wildland fires that release greenhouse gases.

(c) Long-term uneven-aged management of private timberlands within the state and the retention of large, old trees can increase the ability of timberlands to sequester carbon through increased growth and inventory and to convert carbon into oxygen through photosynthesis.

(d) Prudent management of timberlands can decrease the potential for large wildland fires, that release greenhouse gases, by creating forests that are less susceptible to ignition and that reduce the intensity of wildland fires, thereby allowing for more successful fire suppression efforts.

(e) Recent projects have demonstrated the benefits of pursuing program timberland environmental impact reports (PTEIRs), which provide better long-term management guidance for forests than single-project timber harvest plans.

(f) The state has an interest in securing the carbon sequestration and fire protection benefits of prudent long-term management of timberlands owned by nonindustrial landowners.

4598.1.

(a) The purpose of this article is to encourage private investments in, and improved long-term management of, timberlands and resources within the state to promote carbon sequestration through increased timber growth and inventory, reduced carbon emissions from wildland fires by creating fire resiliency on private timberlands, and the protection, maintenance, and enhancement of a productive and stable forest resource system for the benefit of present and future generations.

(b) The primary emphasis of the program established by this article shall be upon increasing carbon sequestration in timberlands and reducing carbon emissions from wildland fires;

provided that, consistent with this primary emphasis, the program shall also be managed to maintain or improve all forest resources, such as fish and wildlife habitat and soil resources, so that the overall effect of the program is to improve the total forest resource system.

4598.2.

(a) In furtherance of the purposes of this article, the department may enter into agreements and make grants and take other actions necessary to carry out the purposes of this article.

(b) (1) The PTEIR for carbon sequestration and fuel reduction program conducted by the department shall encourage forest resource improvements and otherwise facilitate good timberland management through a program of financial and technical assistance to smaller nonindustrial landowners and coalitions of smaller nonindustrial landowners for the development of watershed-specific PTEIRs for watersheds where the primary focus of the contemplated work is reduction of greenhouse gases.

(2) The purpose of this program shall be to work cooperatively with public and private landowners, particularly smaller nonindustrial landowners, to upgrade the long-term management of their lands and, thereby improve the ability of their lands to both sequester carbon and to resist wildland fires that cause emissions of carbon.

4598.3.

As used in this article, the following terms shall have the following meanings:

(a) "Eligible landowner" means any person who meets the conditions set forth in Sections 4598.6 and 4598.8. Where ownership of timberland and timber are not held by the same person, "landowner" means either the person or persons owning the land or the person or persons owning the timber.

(b) "Timberland" has the same meaning as defined in Section 4526.

(c) "PTEIR" means a program timberland environmental impact report prepared pursuant to this article and Article 6.8 (commencing with Section 1092) of Title 14 of the California Code of Regulations.

(d) "Smaller nonindustrial landowner" means an owner of 5,000 acres or less of timberland within the state.

4598.4.

Agreements may be entered into and grants may be made by the director pursuant to this article for the purpose of preparing PTEIRs for projects that demonstrate potential to increase carbon sequestration, decrease atmospheric carbon levels, and reduce the potential for large wildland fires.

4598.5.

- (a) The director may enter into agreements, on behalf of eligible landowners, pursuant to which the department will undertake the preparation of PTEIRs. The department may enter into agreements with the Department of General Services or third-party consultants to assist in the preparation of PTEIRs.
- (b) The department may provide grant funds to eligible landowners in amounts not to exceed the direct costs to the eligible landowners of preparing PTEIRs pursuant to this article.
- (c) The department shall pay the costs of preparing the PTEIRs, or provide grant funds to eligible landowners, from funds appropriated to the department from the Greenhouse Gas Reduction Fund, pursuant to Section 39718 of the Health and Safety Code.
- (d) All expenditures made by the department pursuant to this article shall be in a manner consistent with the criteria expressed in Section 39712 of the Health and Safety Code and with the investment plan developed by the Department of Finance pursuant to Section 39716 of the Health and Safety Code.

4598.6.

To be eligible for participation in an agreement or grant pursuant to Section 4598.5, the following conditions shall be met:

- (a) The application requirements established by the board are satisfied.
- (b) The landowner is a smaller nonindustrial landowner, as defined in Section 4598.3. Where the timberland is owned jointly by more than one individual, group, association, or corporation, as joint tenants, tenants in common, tenants by the entirety, or otherwise, the joint owners shall be considered, for the purposes of this article, as one landowner.
- (c) The parcel or parcels of timberland to which the PTEIR shall apply is either:
 - (1) Within a timber preserve zone established pursuant to Article 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5 of the Government Code; provided, that the parcel of timberland is not the subject of an application for rezoning or immediate rezoning pursuant to Section 51120 or 51130 of the Government Code.
 - (2) Subject to a contract signed by the landowner providing that the landowner agrees not to develop the parcel of timberland for uses incompatible with the PTEIR within 20 years following the execution of an agreement or the making of a grant pursuant to Section 4598.5. The director shall record the contract in the office of the county recorder in the county in which the parcel of timberland is located and, upon recordation, the contract shall be binding upon any person to whom the parcel of timberland is sold, assigned, devised, or otherwise transferred by agreement or operation of law.

4598.7.

Payments or grants pursuant to this article may be made for work that is also the subject of payments or other assistance provided pursuant to federal law; provided, that payments or grants shall not be made pursuant to this article to satisfy landowner cost share requirements of, or repay loans received pursuant to, federal law; and provided, further, that the combined

state and federal payments or other assistance do not together exceed the amount of the actual cost of the PTEIR to the landowner.

4598.8.

In addition to the requirements of Section 4598.6, to be eligible to participate in agreements or receive grants pursuant to Section 4598.5, the landowner shall do all of the following:

(a) Submit a proposal to the department detailing the long-term forest and land management plans for approval by the director. The proposal shall set forth an analysis of timberland

conditions and capabilities relative to carbon sequestration and fire resiliency. The proposal shall describe the management objectives and shall provide for all of the following:

(1) Increased direct carbon sequestration through increased growth and inventory and long-term uneven-aged management of the timberlands.

(2) Improved resistance to wildland fire.

(3) Maintenance of large old trees across the watershed.

(4) Optimized timber growth potential of the timberland consistent with maintaining carbon additionally over the baseline.

(5) Measurable metrics demonstrating greenhouse gas reductions achieved by the long-term management to be analyzed in the PTEIR.

(b) Submit a project application in the form prescribed by the director containing information the board deems necessary to evaluate the PTEIR.

(c) Agree to comply with state or federal laws applicable to the work carried out pursuant to any program timber harvesting plan developed pursuant to a PTEIR.

(d) Agree to provide to the department, upon completion of each program timber harvesting plan undertaken pursuant to a PTEIR, a report detailing greenhouse gas reductions achieved by the plan.

(e) Agree to provide to the department any data or metrics on greenhouse gas reductions as required by law.

4598.9.

To carry out this article and to facilitate participation in the program authorized by this article, the board may promulgate regulations, guidelines, or publications the board deems appropriate. Regulations promulgated by the board may be adopted as emergency regulations.

Regulations or emergency regulations adopted pursuant to this section shall be adopted in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

The adoption of emergency regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare. The regulations, guidelines, or publications shall be submitted to the board for review or approval.

Regulations, guidelines, or publications shall specify all of the following:

- (a) Criteria to determine timberlands that have demonstrated potential for increased carbon sequestration and fire protection benefits and, therefore, the landowners of those lands may be eligible to enter into agreements or receive grant funds under Section 4598.5.
- (b) Guidelines further specifying the scope of projects for which agreements may be entered into or grants made pursuant to this article.
- (c) Factors to be considered and information to be included in proposals submitted pursuant to Section 4598.8.
- (d) A standard application form for proposals submitted pursuant to Section 4598.8.
- (e) Guidelines for evaluation and approval of proposals to enter into agreements or receive grant funds under Section 4598.5.
- (f) Metrics for evaluating the greenhouse gas reductions to be achieved by the long-term management of the timberlands pursuant to the PTEIR.
- (g) The form and content of reports detailing greenhouse gas reductions as required by Section 4598.8.
- (h) Any other matters as the board deems necessary for the effective administration of this article.